

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NOEL SPENCER,

Plaintiff,

- v -

DELTA MACHINERY, INC., et al.,

Defendants.
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DECISION AND ORDER

CV-03-4698 (FB)(VVP)

The plaintiff's application to compel the defendant either to transport a potential trial exhibit to a more convenient location for inspection, or to bear the costs of travel by counsel and the plaintiff's expert to the site where the exhibit is presently stored, is denied. The exhibit is cumbersome, weighing in excess of 500 pounds, and is therefore difficult and potentially costly to transport and store. Its present location, at the site of a rigger who will transport the exhibit to court when needed, is not an inordinate distance from the court. Moreover, the court sees no reason why photographs, as suggested by the defendants, are not a reasonable substitute as long as the plaintiff is specifically advised what the exhibit will be offered to prove and is given the opportunity to specify areas of the exhibit for which photographs are needed.

SO ORDERED:

Viktor V. Pohorelsky
VIKTOR V. POHORELSKY
United States Magistrate Judge

Dated: Brooklyn, New York
June 16, 2005